## REMARKS

Claims 61 and 62 are pending in the application, and have been rejected under 35 U.S.C. § 103. Favorable reconsideration of the claims is requested in view of the within remarks.

## REJECTION UNDER 35 U.S.C. §103

The Examiner has rejected claims 61 and 62 under 35 U.S.C. 103 (a) as being unpatentable over Pociluyko (USPN 3,658,064) in view of Novak (USPN 2,083,575). The Examiner stated that Pociluyko discloses an absorbent article comprising a fluid permeable topsheet layer, a substantially fluid impermeable backsheet layer and a sublayer of fluff material. The Examiner conceded that Pociluyko does not disclose a method of manufacturing his fluff material. The Examiner further stated that Novak discloses a method of making fluff pulp capable of being used in personal hygiene articles which comprises treating a wood fiber pulp containing wood fibers with a base at room temperature. Therefore, the Examiner concluded that the present invention is obvious over the combination of these two references.

Applicants respectfully traverse the Examiner's rejection. The present invention relates to absorbent devices incorporating base extracted pulp which is not chemically crosslinked and which is fluffed prior to incorporation into the absorbent devices.

Applicants submit that the Examiner has not established a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. In addition, there must be a reasonable expectation of success. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior

art, not in applicant's disclosure, MPEP 2143; *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The Examiner's reliance upon the combination of Pociluyko and Novak to arrive at the present invention is misplaced because neither Pociluyko nor Novak suggest that the Novak pulp would be suitable for application in the presently claimed absorbent composites. Further, Novak does **not** teach that his pulp is fluffed. The pulp product of Novak is a wet-laid felt and not a fluff material as the Examiner has alleged. Those skilled in the art could not substitute the felt of Novak for the fluff material of Pociluyko to produce the presently claimed invention as the Examiner has concluded, even if such a substitution were to be obvious. Further, since the teachings of Pociluyko and Novak were known to those skilled in the art for more than 30 and 70 years, respectively, before the present invention, even if Novak taught fluffed pulp, it is improper for the Examiner to conclude without benefit of suggestion in the cited art that a person skilled in the art would not find it obvious to combine these two references to arrive at an absorbent composite which does not require chemically crosslinked pulp. If the invention were obvious as the Examiner has concluded, it would not have taken 70 years for Novak's caustic extracted pulp felt to be fluffed and incorporated in the presently claimed absorbent composite.

Accordingly, Applicants submit that the Examiner's §103 rejection is improper because 1) Novak does not disclose a fluffed pulp as the Examiner has alleged; 2) the combination of references relied upon is not suggested by the prior art, as is required; 3) even if the Examiner's combination were to be suggested, it would not yield the presently claimed combination, and 4) the prior art previously relied upon by the Examiner teaches away from the

use of pulp which is not chemically cross linked. The Examiner is respectfully requested to withdraw this rejection.

For the foregoing reasons, it is submitted that the presently pending claims are allowable and early issuance of a Notice of Allowability is requested.

No fee is believed to be necessary in connection with the filing of this Amendment. However, the Commissioner is hereby authorized to charge any fee required with respect to this Response to Deposit Account No. 50-0540.

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